

# United States District Court

DISTRICT OF

MASSACHUSETTS

UNITED STATES OF AMERICA

v.

GREGORY S. SMITH

## CRIMINAL COMPLAINT

CASE NUMBER: *MJ04-m-220 TLA*

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about January 27, 2004 in Plymouth county, in the

District of Massachusetts defendant(s) did, (Track Statutory Language of Offense) having previously been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess, in and affecting commerce, a firearm, to wit, a Roman Cugir, model WASR-10, 7.62x39mm rifle bearing serial number 30252

in violation of Title 18 United States Code, Section(s) 922(g)(1).

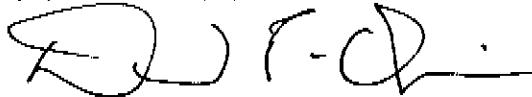
I further state that I am a(n) Special Agent, ATF and that this complaint is based on the following facts:

See attached affidavit of David P. Oliver

Continued on the attached sheet and made a part hereof:

Yes

No



Signature of Complainant

Sworn to before me and subscribed in my presence,

5/20/04

Date

at

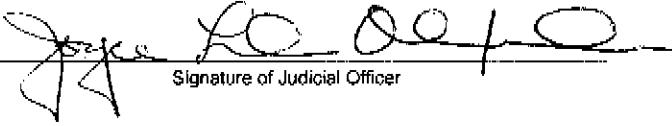
Boston, Massachusetts

City and State

JOYCE LONDON ALEXANDER  
UNITED STATES MAGISTRATE JUDGE

Name & Title of Judicial Officer

This form was electronically produced by Elite Federal Forms, Inc.



Signature of Judicial Officer

AFFIDAVIT

I, David P. Oliver, having been duly sworn, on oath depose and state that:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"), and have been so employed since 1999. In that capacity, I investigate numerous violations of the federal firearms and narcotics statutes and have participated in numerous investigations relating to the unlawful possession of firearms and/or possession and sale of narcotics.

2. This affidavit is made in support of a criminal complaint charging Gregory S. Smith ("Smith") with a violation of Title 18, United States Code, Section 922(g)(1) (felon in possession of a firearm). Smith resides at 30 West Chestnut Street in Brockton, Massachusetts.

3. Based on my training and experience as an ATF Special Agent, I am familiar with federal firearms laws and know that it is a violation of 18 U.S.C. §922(g)(1) for any person who has been previously convicted of a felony, that is, a criminal offense punishable by imprisonment exceeding one year, to possess a firearm or ammunition that has traveled in interstate commerce.

3. The facts stated herein are based upon my own personal involvement in this investigation and my discussions

with other law enforcement officers involved in this investigation. In submitting this affidavit, however, I have not included each and every fact known to me about the investigation, but only facts I believe to be sufficient to establish the requisite probable cause.

4. In January 2004, a cooperating witness ("CW") informed me that Smith had offered to sell the CW two firearms, an AK-47 rifle and a .357 caliber pistol. On January 26, 2004, an ATF agent recorded a telephone conversation between Smith and the CW. During that conversation, Smith and the CW agreed to meet the following day to make arrangements for the CW to purchase the firearms from Smith. On January 27, 2004, ATF agents recorded another telephone conversation between Smith and the CW. In that conversation, the CW agreed to call Smith later that afternoon.

5. At approximately 4:30 p.m. on January 27, 2004, several ATF agents met with the CW in Brockton, Massachusetts. The agents searched both the CW's person and his vehicle and ascertained that the CW had no firearms, ammunition, or other contraband on his person or in his vehicle. The agents equipped the CW with an audio recording device and \$1,000 in U.S. currency for the purpose of making a controlled purchase

of firearms from Smith.

6. Also at approximately 4:30 p.m. on January 27, 2004, several ATF agents established surveillance at Smith's residence, 30 West Chestnut Street in Brockton, Massachusetts. Agents saw Smith in front of his residence when they arrived to establish surveillance.

7. At approximately 4:37 p.m., the CW arrived at Smith's residence. The ATF video taped the CW entering Smith's residence and monitored the conversation between Smith and the CW inside the residence. During the meeting, Smith showed the CW a rifle that Smith described as an AK-47 and as "what they use to fight wars with." Smith asked the CW if he had \$700. Smith also told the CW he could obtain a .357 caliber pistol, hand grenades, and other small arms if the CW was interested.

8. Approximately six minutes after observing the CW enter Smith's residence, ATF agents observed the CW exit the building carrying a long box. The CW put the box into his vehicle and, followed by ATF agents, drove back to a pre-arranged meeting location. At that location, the agents retrieved from the CW's vehicle the box the CW had carried out of Smith's residence. Inside the box, agents found a Roman Cugir, model WASR-10, 7.62x39mm rifle bearing serial number

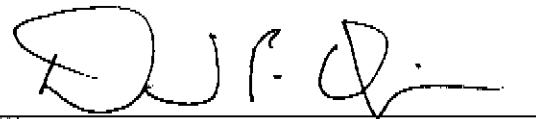
30252. The box also contained two magazines, each loaded with five rounds of 7.62x39mm ammunition. In a meeting with ATF agents that afternoon, the CW confirmed that Smith had showed the rifle to the CW, had placed it in the box, and had given the box to the CW during the CW's meeting with Smith at Smith's residence.

9. I have spoken with Special Agent Angelo A. Thurman, an ATF firearms interstate nexus examiner, who informed me that the Roman Cugir, model WASR-10, 7.62x39mm rifle bearing serial number 30252 was manufactured outside the Commonwealth of Massachusetts and had therefore traveled in interstate commerce prior to January 27, 2004.

10. I have obtained from the Massachusetts Criminal History Systems Board a computer printout containing Smith's prior adult criminal history. That record reveals several adult convictions, including a conviction for kidnapping in Plymouth Superior Court in 1995. I know this crime to be punishable under Massachusetts law by a term of imprisonment exceeding one year.

11. Based on the above, there is probable cause to believe that, on January 27, 2004, in Brockton, within the District of Massachusetts, Gregory S. Smith, having previously been convicted of a crime punishable by a term of imprisonment

exceeding one year, possessed a firearm in and affecting commerce, to wit, a Roman Cugir, model WASR-10, 7.62x39mm rifle bearing serial number 30252, in violation of 18 U.S.C. §922(g)(1).



David P. Oliver  
Special Agent  
Bureau of Alcohol, Tobacco,  
Firearms & Explosives

Sworn and subscribed to before me this 20<sup>th</sup> day of May, 2004.



JOYCE LONDON ALEXANDER  
UNITED STATES MAGISTRATE JUDGE

**Criminal Case Cover Sheet****U.S. District Court - District of Massachusetts**Place of Offense: \_\_\_\_\_ Category No. II \_\_\_\_\_ Investigating Agency ATF \_\_\_\_\_City Brockton \_\_\_\_\_ Related Case Information:County Plymouth \_\_\_\_\_ Superseding Ind./ Inf. \_\_\_\_\_ Case No. \_\_\_\_\_

Same Defendant \_\_\_\_\_ New Defendant \_\_\_\_\_

Magistrate Judge Case Number \_\_\_\_\_

Search Warrant Case Number \_\_\_\_\_

R 20/R 40 from District of \_\_\_\_\_

**Defendant Information:**Defendant Name Gregory S. Smith \_\_\_\_\_ Juvenile  Yes  No

Alias Name \_\_\_\_\_

Address \_\_\_\_\_

Birth date (Year only): 1962 SSN (last 4 #): 7900 Sex M Race: White Nationality: USA

Defense Counsel if known: \_\_\_\_\_ Address: \_\_\_\_\_

Bar Number: \_\_\_\_\_

**U.S. Attorney Information:**AUSA John A. Capin Bar Number if applicable \_\_\_\_\_Interpreter:  Yes  No List language and/or dialect: \_\_\_\_\_Matter to be SEALED:  Yes  No Warrant Requested  Regular Process  In Custody**Location Status:**

Arrest Date: \_\_\_\_\_

 Already in Federal Custody as \_\_\_\_\_ in \_\_\_\_\_ Already in State Custody \_\_\_\_\_  Serving Sentence  Awaiting Trial On Pretrial Release: Ordered by \_\_\_\_\_ on \_\_\_\_\_Charging Document:  Complaint  Information  IndictmentTotal # of Counts:  Petty \_\_\_\_\_  Misdemeanor \_\_\_\_\_  Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

 I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: 5/20/04 Signature of AUSA: JAC

District Court Case Number (To be filled in by deputy clerk): \_\_\_\_\_

Name of Defendant Gregory S. Smith

**U.S.C. Citations**

<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1 <u>18 U.S.C. §922(g)(1)</u>	<u>Felon in Possession of a Firearm</u>	<u>1</u>
Set 2 _____	_____	_____
Set 3 _____	_____	_____
Set 4 _____	_____	_____
Set 5 _____	_____	_____
Set 6 _____	_____	_____
Set 7 _____	_____	_____
Set 8 _____	_____	_____
Set 9 _____	_____	_____
Set 10 _____	_____	_____
Set 11 _____	_____	_____
Set 12 _____	_____	_____
Set 13 _____	_____	_____
Set 14 _____	_____	_____
Set 15 _____	_____	_____

**ADDITIONAL INFORMATION:** \_\_\_\_\_